

D. Lawrence
2/11/03
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

John McNeil

Serial No.: 09/678,434 ✓

Filing Date: October 3, 2000

For: SELF-DISPENSING STORAGE DEVICE

Confirmation No.: 5282

Group Art Unit: 1743

Examiner: Elizabeth S. Quan

EXPRESS MAIL LABEL NO: EL 8277241656 US
DATE OF DEPOSIT: February 3, 2003

Assistant Commissioner for Patents
Washington DC 20231

Sir:

RESPONSE TO REQUIREMENT FOR RESTRICTION

This is in response to the Office Action dated December 17, 2002, (Paper no. 62) issued in connection with the above-identified patent application. Please amend the application as follows:

In the claims:

Please cancel claims 29, 30, and 36-42, without prejudice.

REMARKS

Claims 1-28 and 31-35 will be pending upon entry of the amendment. Claims 29, 30, and 36-42 have been cancelled, without prejudice, as being drawn to a non-elected invention. Consideration and allowance of the pending claims is respectfully requested.

The Office Action has set forth three groups of claims and requires the election of one group for examination. Applicant elects Group I (claims 1-28 and 31-35) for further prosecution.¹

The Office Action also requests an election of species if Group I is elected. Applicant believes the species election that the Office Action requests is misplaced. However, in order to be fully responsive to the Office Action, Applicant elects species directed to positive displacement pumps. Applicant believes claims 10 and 15-22 are readable on the selected species.

¹ Contrary to the Office Action's assertion, Applicant's representative, Michael K. Jones, notified the Examiner on November 13, 2002 by telephone that Applicant elected Group I.

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The Office Action requests Applicant to elect one of “seven different types of dispensing mechanisms.” The classification used in the Office Action to define the seven types is inconsistent. Applicant’s specification specifically identifies **two** exemplary types of dispensing mechanisms that can be used to dispense the sample (page 12, lines 14-17). The two exemplary types of dispensing mechanisms specified are time and pressure type pumps and positive displacement type pumps (*id.*). The seven types identified in the Office Action include the time and pressure type pump (claim 9) and six variations of positive displacement type pumps (claim 10), including: cow udder type (claim 17), membrane pump type (claim 18), embedded balls type (claim 19), two-dimensional type (claim 20), rotary valve type (claim 21), and steam engine type (claim 22). Thus, the Office Action incorrectly leaves out general positive displacement type pumps and compares a time and pressure type pump with six variation of positive displacement pumps. Accordingly, the Office Action’s assertion that there are **seven** different types of dispensing mechanisms is incorrect. Applicant’s claims specify **two** exemplary types of dispensing mechanisms. Applicant provisionally elects the positive displacement type (claim 10), without traverse. In an effort to further prosecution, Applicant further provisionally elects the cow udder positive displacement pump (claim 17) if the Examiner disagrees with Applicant’s election of the positive displacement type pump (claim 10).

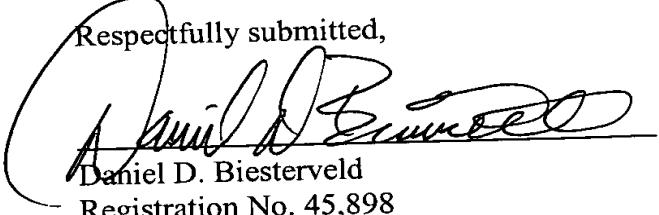
Applicant believes that the present response is a complete and complies with the requirements of 35 U.S.C. § 121. Accordingly, an early and favorable consideration of the application and allowance of all pending claims is respectfully requested. Applicant invites the Examiner to call the undersigned at (215) 557-5963 if the Examiner has any question concerning this response.

A marked-up version of the changes made by the current amendment is attached. The attached page is captioned VERSION WITH MARKINGS TO SHOW CHANGES

MADE.

Date: February 3, 2003

Respectfully submitted,


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